

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07CV83-3-W
92cr284-07-P**

MICHAEL T. ROZELLE,)	
)	
)	
Petitioner,)	
v.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

THIS MATTER comes before the Court upon the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, filed February 16, 2007.

The Petitioner has filed two previous motions to vacate (case no. 3:97cv205-P on 4/21/97 and successive motion to vacate on 8/10/98) both of which were been denied. Under the Antiterrorism and Effective Death Penalty Act (AEDPA), "a second or successive motion must be certified . . . by a panel of the appropriate court of appeals . . ." 28 U.S.C. § 2255 (1997). Therefore, the Petitioner must first certify his claim with the Fourth Circuit Court of Appeals before he can file his successive claim in the District Court.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion to Vacate, Set Aside or Correct Sentence is **DISMISSED** without prejudice as successive.

SO ORDERED.

Signed: February 23, 2007

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
United States District Judge

